

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

WALTER S. SANDERS,

Defendant.

ORDER

09-cr-20-bbc

Defendant Walter S. Sanders is facing sentencing for failing unlawfully to update his sex offender registration after traveling to Mississippi from Wisconsin, in violation of 18 U.S.C. § 2250. Defendant challenged its constitutionality on several grounds. In a report and recommendation, United States Magistrate Judge Stephen L. Crocker recommended denial of defendant's motion to dismiss the indictment. Defendant then entered a conditional plea of guilty, reserving his right to withdraw his plea if the court adopted the magistrate judge's decision, and filed objections to the report and recommendation. Those objections are before the court for consideration.

Defendant's motion and his objections raise a variety of interesting questions about the due process clause as it relates to legislation enacted after the underlying crime has been

committed, the legitimacy of delegating to the Attorney General of the United States the authority to determine whether a law shall have retroactive application and whether the legislation violates the commerce clause. As the magistrate judge explained, however, the Court of Appeals for the Seventh Circuit has decided these questions against defendant. In a hierarchial system such as ours, a district court is bound by the decisions of the court of appeals for the circuit in which the district court sits. Perhaps defendant can convince the court of appeals to give further consideration to his commerce clause argument; he cannot convince this court to do so in light of the appellate court's dispositive ruling.

ORDER

IT IS ORDERED that the magistrate judge's recommendation in his May 29, 2009 report is ADOPTED; defendant Walter S. Sanders's motion to dismiss the indictment against him is DENIED.

Entered this 26th day of June, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge